

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RANDY VEEDER,

Petitioner,

Civil No. 2:17-CV-12864
Honorable Terrence G. Berg

v.

NEW PATHS, INC., ET AL.,

Respondent.

/

**OPINION AND ORDER OF SUMMARY
DISMISSAL WITHOUT PREJUDICE**

Plaintiff Randy Veeder, currently confined in the Michigan Department of Corrections, has filed a civil rights complaint pursuant to 42 U.S.C. § 1983. The claims in this complaint duplicate those found in a civil action Plaintiff previously filed, which is also pending before the Court, *Veeder v. Michigan Department of Corrections, et al.*, No. 4:17-cv-11690. Because the complaint in the instant case is duplicative of another case pending in this Court, this complaint will be dismissed without prejudice.

In the previously-filed matter, like this case, Plaintiff raises claims that while he was serving a term of parole at two residential

drug facilities, TRI-CAP and New Paths, Inc., he was denied his right of access to the courts and terminated from treatment in retaliation for exercising his rights under the First Amendment. *See Veeder v. Michigan Department of Corrections, et al.*, No. 4:17-cv-11690.

The instant complaint names nine defendants, six of whom were also named in the earlier filed complaint. This case also claims that New Paths, Inc. and its employees violated Plaintiff's right of access to the courts and improperly terminated his participation in the program.

Plaintiffs generally have "no right to maintain two separate actions involving the same subject matter at the same time in the same court and against the same defendants." *Cummings v. Mason*, No. 11-649, 2011 WL 2745937 (W.D. Mich. July 13, 2011), quoting *Walton v. Eaton Corp.*, 563 F.2d 66, 70 (3d Cir. 1977). As part of its inherent power to administer its docket, a district court may dismiss a suit that is duplicative of another federal court suit. *Cummings*, 2011 WL 2745937 at *1, citing *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976); *Adams v. Cal. Dep't of Health Serv.*, 487 F.3d 684, 688 (9th Cir. 2007); *Smith v. SEC*, 129 F.3d 356, 361 (6th Cir. 1997). The power to dismiss a duplicative lawsuit is meant to

foster judicial economy and the “comprehensive disposition of litigation,” *Kerotest Mfg. Co. v. C-O-Two Fire Equip. Co.*, 342 U.S. 180, 183 (1952), and to protect parties from “the vexation of concurrent litigation over the same subject matter.” *Adam v. Jacobs*, 950 F.2d 89, 93 (2d Cir. 1991).

A complaint is duplicative and subject to dismissal if the claims, parties and available relief do not significantly differ from an earlier-filed action. *See Serlin v. Arthur Andersen & Co.*, 3 F.3d 221, 223 (7th Cir. 1993). Although the complaints need not be identical, neither should they “significantly differ” in order to be considered duplicative. A court must focus on the substance of the complaint. *See Bailey v. Johnson*, 846 F.2d 1019, 1021 (5th Cir. 1988) (holding that a complaint was duplicative although different defendants were named because it “repeat[ed] the same factual allegations” asserted in the earlier case). Here, the parties and claims of this case overlap with the earlier-filed case. In view of the similarity of the claims, the Court concludes that the present complaint, Civ. No. 17-12864, is duplicative of the earlier-filed case, Civ. No. 17-11690.

Accordingly, **IT IS ORDERED** that the complaint in this matter

[Dkt. #1] is hereby **DISMISSED WITHOUT PREJUDICE**. Should Plaintiff wish to amend the complaint in the earlier-filed case, Civ. No. 17-11690, in order to add the additional defendants included in the instant case, he may file a motion in the earlier-filed case seeking to do so.

SO ORDERED.

s/Terrence G. Berg
TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE

Dated: October 19, 2017

Certificate of Service

I hereby certify that this Order was electronically submitted on October 19, 2017, using the CM/ECF system, which will send notification to each party.

s/A. Chubb
Case Manager